GOVERNMENT OF INDIA
PANCHAYATI RAJ
LOK SABHA

UNSTARRED QUESTION NO:5039
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EMPOWERMENT OF PANCHAYATI RAJ INSTITUTIONS
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Will the Minister of PANCHAYATI RAJ be pleased to state:

(a) the measures taken by the Government to empower Panchayati Raj Institutions financially;

(b) the gist of recommendations of the Twelfth Finance Commission with regard to the devolution of financial resources to Panchayati Raj Institutions;

(c) whether the Union Government has accepted all the recommendations made by the Twelth Finance Commission;

(d) if SO; the financial commitment on the part of Union Government when these recommendations are implemented;

(e) whether there is a proposal to stop the financial grant to those States which have failed to conduct elections to local bodies; and

(f) if so the details thereof?

Answer

MINISTER OF PANCHAYATI RAJ (SHRI MANI SHANKAR AIYAR)

(a) The measures taken by Government to empower Panchayati Raj Institutions financially are given in Annex-I.

(b) The gist of the recommendations of the Twelfth Finance Commission with regard to the devolution of financial resources to Panchayati Raj Institutions is given in Annex-II.

(c) The Government has accepted the recommendations in respect of local bodies made by the Twelth Finance Commission in their Report.

(d) When these recommendations are implemented, the financial commitment on the part of the Union Government is expected to be of the order of Rs.20,000 crore for Panchayats for the five year period from 2005-06 to 2009-2010.

(e) &

(f) Guidelines are under formulation to govern the release of grants as directed by the Twelfth Finance Commission.

Annex-I

The Constitution has three articles that speak of the financial strengthening of the Panchayats. These are as follows:

Under Article 243H, the legislature of a Slate may; by law. authorise a Panchayat to levy, collect and appropriate taxes, duties, tolls and fees. It can also isijassign to a Panchayat such taxes, duties, tolls and fees levied and collected by the State Government. It can provide for making such grants-in-aid to the Panchayats from the States Consolidated Fund and provide for constitution of such Funds for crediting all moneys received by or on behalf of the Panchayats and also for the withdrawal of such moneys therefrom.

Under Article 243-i, the Governor of a State shall every five years, constitute Finance Commission to review the financial position of the Panchayats and to make recommendations as to the principles which should govern the distribution between the State and the Panchayats of the net proceeds of the taxes, duties,toils and fees leviable by the State, which may be divided between them and the allocation between the Panchayats at all levels of their respective shares, the determination of the taxes, duties, tolls and fees which may be assigned to. or appropriated by. the Panchayats, the grants-in-aid to the Panchayats from the Consolidated Fund of the Slate and measures needed to improve the financial position of the Panchayats.

Under Article 243.1, the Stale Legislature may by law. make provisions with respect to the maintenance of accounts by the Panchayats and the auditing of such accounts.

Between July and December 2004, the Ministry of Panchayati Raj held seven Round Tables of State Ministers of Panchayati Raj, in order to formulate a draft action plan towards achieving the objective of strengthening of Panchayati Raj Institutions so that thev emerge as institution? of self-government as envisioned in the Constitution. The first round table held at Kolkata dealt inter-alia, with

the issue of devolution of finances to Panchayats. The sixth Round Table at Guwahati considered the issue of audit and account of Panchayats The details of the consensus arrived at in these Round tables, insofar as they pertain to the issue of Panchayat finances are enclosed at Annex lll & IV.

A Committee of Chief Secretaries of States and State Panchayati Raj Secretaries has been constituted under the Chairmanship of the Secretary(Panchayati Raj) to monitor the progress on the implementation of the 150 recommendations of the Seven Round Tables.

A Council of Ministers of Panchavati Raj of States/Union Territories has been constituted under the Chairmanship of the Minister of Panchavati Raj, Government of India to monitor the implementation oi the 150 recommendations of the Seven Round Tables.The Ministry has now initiated a process of visiting each of the States/UTs to review with the authorities concerned the progress in implementing the points for action agreed upon in the Round Tables. It is expected that these initiatives would accelerate the pace of strengthening of Panchavat finances.

Annex-ll

The following are the important recommendations of the 12th Finance Commission for the Panchayati Raj Institutions:

i . The best practices listed in para 8.19 of the report may be considered for adoption by States to improve the resources of the Panchayats.

ii. the States should avoid delays in the constitution of State Finance Commissions; their constitution in phase, frequent reconstitution, submission of reports and tabling of the action taken reports in the legislature.

iii. State Finance Commission Reports should be readily available to the Central Finance Commission when the later is constituted so that an assessment of the States need could be made by the Central Finance Commission on the basis of uniform principles.

iv. SFCs must be constituted with people of eminence and competence with qualification and experience in the relevant field .

v. the convention at the national level of accepting the principal recommendations of the Finance Commission without modification should be followed at the State leveling respect of SFCs Reports.

vi. the SFCs must clearly identify the issues which require action on the part of the Central Government to augment the Consolidated Fund of the State and list them out in a separate Chapter for the consideration of the Central Finance Commission.

vii, The suggestions made by SFCs regarding raising the ceiling on professional tax is endorsed for action by Central Government.

viii. SFCs should follow the procedure adopted by the Central Finance Commission for transfer of resources from the Centre to the States in respect of resource transfers from State Governments to local bodies. The SFC reports should contain estimation and analysis of finances of the State Government as well as the local bodies at the pre and post transfer stages alongwith a quantification of the revenues hat could be generated additionally by the local bodies. The gaps that may still remain would then constitute the basis for measures to be recommended by the Central Finance Commission.

ix. while estimating the resources of the local bodies, SFCs should follow a normative approach in the assessment of revenues and expenditure.

x. A permanent SFC Cell may be created in the Finance Department of State Governments as the collection and collation of data would need to be done constantly and made available to the SFCs as and when it is constituted,

xi. The PRIs should be encouraged to take over the assets relating to water supply and sanitation and utilize the grants for repairs as also the O&M costs. The PRIs should, however, recover 50% of the recurring cost in the form of users charges.

xii. Most States do not have credible information on the finances of their local bodies. States may assess the requirement oi each local body in this regard and earmark funds accordingly out of the total allocation recommended by the 12th Finance Commission.

xiii. No conditional!ty over and above those recommended by the 12lil Finance Commission be imposed by the Central Government for releasing the grants in aid.

FIRST ROUND TABLE OF MIMSTERS-IN-CHARGE OF PANCHAYATI RAJ - KOLKATA. 24-25 till July, 2004 Effective Devolution of Functions :

l) The Constitution (Article 243G) provides for `devolution`, that is, the empowerment of Panchayati Raj Institutions (PRIs) to function as institutions of self-government for the twin purposes of (i) making plans for economic development and social justice for their respective areas, and ii) implementing programmes of economic development and social justice in their respective areas, for subjects devolved to the PRIs. including those listed in the Eleventh Schedule, and subject to such conditions as the State may. by law, specify. Therefore, the key objective is to ensure that Panchayati Raj Institutions function as institutions of self-government rather than as mere implementing agencies for other authorities in respect of such functions as may be devolved on them;

ll) While devolution must eventually comprise the entire range of subjects provided for in the State legislation in a time-bound manner. States/UTs may prioritize their devolution programme to ensure that for such functions as are prioritized, there is full and effective devolution in empowering PRIs as institutions of self-government in respect of these functions;

III) To this end. the essential step is the identification of activities related to the devolved functions with a view to attributing each of these activities to the appropriate tier of the 3-tier system. To the extent possible, there should be no overlapping between tiers in respect of any given activity:

IV) In determining the tier of the Panchayati Raj System to which any given activity is to be attributed, the principle of subsidiarity must, to the extent-possible,be followed. The principle of subsidiarity states that any activity which can be undertaken at a lower level must be undertaken at that level in preference to beingundertaken at any higher level;

v) On the basis of the identification of activities relating to devolved functions, and through the application of the principle of the subsidiarity. States/UTs may review/undertake time bound activity mapping with a view to completing this exercise within the fiscal year 2004-05:

VI) The activity mapping model as evolved in the Ministry of Rural Development in the Report of the Task Force on Devolution of Powers and Functions upon Panchayati Raj Institutions. and the information provided about existing State-wise activity mapping in the Fact Sheets presented to the Round Table,might be drawn upon by State Governments/UT Administrations for preparing their respective activity mapping exercises:

VII) The Union Ministry of Panchayati Raj could, on request, furnish technical assistance and expertise t o State Govts./UT Administrations to accomplish activity mapping within the time-frame indicated:

VIII) With a view to promoting a measure of irrevocability of devolved functions. devolution may be routed through legislative measures or. alternatively, by providing a strong legislative framework for devolution through executive orders.

Effective Devolution of Functionaries :

I) The devolution of functionaries to the Panchayati Raj Institutions should be patterned on the activity mapping of activities related to devolved functions;

II) Where the devolved activity requires the deputation of State Government officials to assist the elected PRI in planning or implementing the devolved activity, the officials concerned must be primarily responsible to. and under the disciplinary supervision and control of. the elected authority:

III) With a view to building a cadre of officials and technocrats specialized in the devolved functions of the PRIs. State Governments/UT Administrations may consider instituting a Panchayati Raj Administrative and Technical Service, with the State Government discontinuing further recruitment of staff to State services for such devolved functions;

IV)(i) Reconceiving the role of District Rural Development Agencies (DRDAs) as an important instrument for Panchayati Raj development through the progressive merger of DRDAs with the District Panchayats. The technical expertise and other facilities of the DRDAs should become available to ail tiers of the PRIs under the overall responsibility and disciplinary control of the elected authority in the PRIs at the appropriate level:

(ii) The activities of the reconceived DRDAs with respect to the three tiers of the Panchayati Raj system should be patterned on the activity map for the devolution of functions, functionaries and funds so that all the three tiers of PRIs have equitable access to the resources, expertise, facilities and manpower of the DRDAs.

Effective Devolution of Finances

I) The `sound finances` of the Panchayats is a Constitutional obligation enjoined on the States by Article 243-1. In pursuance of this Constitutional obligation.the States and the Centre, in a true spirit of fiscal federalism, should work togetherto strengthen the finances of the elected local bodies:

II) To this end. the devolution of finances to the three tiers of the Panchayati Raj System should be patterned on activity mapping for the devolution of functions and functionaries, thus securing effective .devolution of powers to the PRIs through the linkine of the devolution of finances to the devolution of functions and functionaries:

III) On the basis of the principles adumbrated above, the State Governments might attempt to prepare a road map, to be made effective as soon as possible, and,in any case, by the end of the next fiscal year 2005-06. which might include the following components :

(i) Devolution, tier-wise and based on activity mapping, of:

(a) Planning:

(b) Budgeting:

(c) Provisioning of finances.

(ii) Inclusion of a PRI component in the budget (each State/Central Government department based on activity mapping;

(iii) Provision of progressively larger untied funds, tier-wise, to the Panchayats by State/Central governments;

(iv) Provision of untied grants from the Planning Commission to the PRIs. tier-wise, based on activity mapping;

(v) Tier-wise allocations, based on activity mapping of the PRIs, of hitherto unallocated grants, if any, made by previous Finance Commissions, and a pre-determined pattern for the tier-wise allocation within a time bound framework of grants from the 12` and future Finance Commissions;

(vi) A schedule, to be determined by each State Government/UT Administration, of the time-frames within which State Finance Commissions should prepare their reports: for the submission of State Finance Commission recommendations, along with Action Taken Reports (ATRs). to the Legislature; and for the executive TO act on recommendations/ATRs endorsed bv the State Legislature:

(vii) Steps to encourage PRIs to raise their own resources, especially through the provision to `appropriate` revenues raised by them for their own purposes (Article 243-11).

Gram Sabhas :

I) Article 243-A of Part IX of the Constitution provides for the establishmentof Gram Sabhas to `exercise such powers and perform such functions at the village level as the Legislature of a State may, by law. provide`;

II)A strong system of Gram Sabhas is the indispensable foundation of good governance through Panchayati Raj;

III) Based on the two principles stated above,State Governments may review the extant legislation to determine the legislative and other steps which remain to be taken to ensure that the `powers` and `functions` mentioned in Article 243A of the Constitution are adequately incorporated in the State legislation. In particular, the following points may be examined : -

(i) The need for constituting Sabhas below the Gram level (such as Gram Sansad. Upa-Gram Sabha or Ward Sabha. by whatever name called) with the aim of ensuring that the adult population in each ward is given the opportunity of conveying to the Gram Sabha their views on issues coming up for consideration as also holding the elected Ward representative responsible to the adult population in each Ward,

(ii) The periodicity of meetings of Gram Sabhas and Ward Sabhas;

(iii) Provision for full and satisfactory consultation with special or disadvantaged categories of the population, such as women. SC/ST, landless labourer etc;

(iv) Provision for Mahila Sabha meetings, comprising all the adult women of a Ward/Gram Panchayat area, to deliberate upon, and decide the modalities of. expressing their views in the Gram/Ward Sabhas;

(v) Rndowing the Gram/Ward Sabha with meaningful empowerment through such measures as.

(a) Right/entitlement to all the information required for the Gram/Ward Sabhas to contribute to transparent and good governance, as well as to make the elected Panchayai trul\ answerable to the Gram/Ward Sabha;

b) Approve before implementation commences, plans and programmes(including budgets) economic development and social justice prepared by the Gram Panchayat; c) Authorize the issuance of utilization certificates of funds allocated for the plans, projects or programmes of the Panehayat;

d) Identification of beneficiaries.

(vi) Such social audit measures may also be appropriately institutionalized at the Block and District level.

SIXTH ROUND TABLE OF MINISTERS IN-CHARGE OF PANCHAYATI RAJ GUWAHATI, 27-28 NOVEMBER 2004

Ministers of pandurjai Raj And representatives bearing in mind the spirit of cooperative federalism winch must inform the effective implementation of Panchayati Raj as set om in Pan IX of the C oust itut ion of India and related provisions, agreed to recommend to ilieir respective (imernments. lor joint acceptance by the Centre and ihe Slates, the following points of action.Elections

(i) The Indian voter is and indivisible. The principle of parity between parliamentary and assembly elections, on the one hand and panchayat elections. on the other, must therefore be maintained, especially as it is noticed that people`s participation in panchayat elections is substantial and generally equal to or higher than in parliamentary / assembly elections. Thus, for example, even in States with difficult geographical terrain, 88% of the electorate has participated in panchayat elections in Himachal Pradesh and 83.5% has participated in Sikkim.

(ii) While all matters relating to panchayat elections have been vested by the Constitution in State legislatures/ governments, there is a need to work towards commonality, if not uniformity, in election procedures and pro\isicms. To this end. it would desirable to vest all responsibilities for the election process in State Election Commissions rather than splitting these up, including:

(a) preparation of electoral rolls;

(b) delimitation of constituencies;

(c) reservations and rotations;

(d) qualifications of candidates;

(e) conduct of elections; and

(f) functioning as the first stage of adjudication in election disputes.

(iii) The Union Government might consider the preparation of a model code relating to the supervision, direction and conduct of elections to the Panchayati Raj Institutions (PRIs).

(iv) With a view to evolving a common electoral roil for all levels of elections, consultations between the Chief Election Commissioner (CEC) and the State Election Commissioners(SECs) might be encouraged with a view to resolving practical problems that might arise in the preparation, maintenance and updating of such electoral rolls for elections 10 be held at different times for different levels of Governments. The panchayat and nagarpalika wards should be regarded as the buildine blocks for electoral rolls for all levels of election.

(v)Consideration may be-given to incorporating in the laws pertaining elections the same provisions of disclosure as apply to Parliament and State Assembly Elections.

(vi) The Election Commission of India (HCT) might be approached for establishing a forum for institutional interaction between SECs and EC1 on issues such as directives being issued by the State Flection Commission: the use of radio broadcasting for`disseminating election-related information; anomalies arising out`.of migration: linking delimitation with census operation: uniformity.`in service condition of SECs; and proposals like sealing the electronic chip in the Electronic Voting Machine (EVM). and not the machine itself, for evidentiary purposes, thus leaving the machine free for use in panchayat elections.

(vii) States may consider according the same salary and emoluments lo State Election Commissioners as High Court Judges are entitled to.

(viii) It is recommended that the Delimitation Commission be regularly in contact with the SECs. who are members of the Commission, to sort out practical difficulties arising out of delimitation process,

(ix) To facilitate the use of Electronic Voting Machines (FVMs) in panchayat elections, the Union Government in consultation with Election Commission of India and the SECs. might consider issues relating to the funding of the purchase oi` EVMs for the use of State Election Commissions.

(x) Elections to District Planning Committees provided for in Article 243ZD of the Constitution might also be brought within the purview ofStale Election Commissions ensure full conformity with Constitutional provisions, which has not always been the case.

Audit

(i) Since local bodies are now institutions of local self-government, it is necessary to upgrade the work of the Director of Local Fund Audit(DLFA) and other similar bodies to the level required by Constitutional imperatives and, to this end, for DLFA and other similar bodies to work in concert with the Comptroller and Auditor General of India (C&AG). In recognition of PRIs being institutions of local self-government, PRIs themselves should be associated with the preparation of standards and 37 norms and the emphasis should be on fund management and fund tracking, rather than simply on fund flow, to ensure greater accountability.

(iii) in order to ensure that such audit contributes effectively to capping. reducing and eventually eliminating the scope for corruption in Panchayali Raj Institutions (PRIs). it is necessary that audit & accounting standards appropriate to the work of the Panchayats be established and observed. These standards should be elementary.simple and easily comprehensible to the elected representatives, and should focus on. when transactions should be looked into: what should be monitored: how the transactions should be documented; and how they should be disclosed.

(iv) There is need to establish an internal audit system at every tier of the Panchayati Raj system and to regard C&AG audit (or audit by bodies certified or technically guided by C&AG) as complementary external audit.

(v) Audit, to be effective, might include the establishment of a National Accounting Standards Board (NASB) for local government accounts and be complemented by the establishment of audit commissions or similar such regulatory bodies at the State level.

(vi) Besides, arrangements may be made in State Legislatures for the establishment of Public Accounts Committees (PACs) specifically for PRIs or for the accounts of PRIs to be submitted to PR Committees of the State Legislatures, State level committees, as in Andhra Pradesh, for the settlement of audit paras may also be considered.

(vii) It may be useful to complement such institutional arrangements by legislating an appropriate Fiscal Responsibility Act for elected local authorities.

(viii) Outsourcing of accounting by such measures as village panchayats being authorized to employ certified Chartered Accountants against standard contracts might be considered.

(ix)The training of both officials and elected representatives in sound accounting and audit practices is a high priority. To this end. State Governments are invited to make full use of the Regional Training institutes(RTIs)functioning under the arise of the C&AG. in

particular the RTL at Kolkata which has been declared a centre of excellence; as also of the Institute of Public Auditors of india(IPAI).Substantial additional funding from the Union Government to facilitatetraining is a high priority.

(x) Those State Governments which have not as yet availed of the arrangements for bringing the C&AG into the exercise of accounting and audit, including the C&AG`s Technical Guidance and Supervision (TGS) Scheme for the PRIs, are invited to do so and the attention of all concerned is drawn to the publications of the Indian and Audit Accounts Department, in particular

a) Auditing Standards for PRIs and Urban Local Bodies

b) Guidelines for Certification of Audit Accounts of PRIs

c) Training module of Audit of Gram Panchayats

(xi) Given the shortage of staff for undertaking formal accounts and audit work in the lakhs of Village Panchayats, thousands of Intermediate Panchayats and hundreds of Zilla Parishads around the country, it is essential that automation and computerization of accounts be undertaken with all deliberate speed and to this end software like the one being prepared by the Xavier Institute of Management. Bhubaneshwar for the Orissa State Government, for maintaining day-to-day accounts, which is expected to be ready by early 2004, be deployed as widely as possible everywhere.

(xii) Social audit is an important complcmeni to formal audit and for the sound and healthy development of Panchayati Raj, it is essential to establish a symbiotic relationship between social and formal audit.

(xiii) Social audit must necessarily be undertaken at the level of the Gram Sabha but might also be undertaken at higher levels of the Panchayat Raj system, as in West Bengal.

(xiv) For social audit to be effective and based on the best practices available in different States, consideration might be given to the preparation of Social Audit Policies for adoption by State Legislatures/Governments so as to provide a framework within which social audit is undertaken. Such Social Audit Policies may be targeted at facilitating popular participation in fighting corruption in Panchayats. as also complementing formal audit processes by quality assessment, ascertainment of preferences and the provision of choices. At the same time. Social Audit Policies may provide for institutional measures to pil, needless harassment.

(xv) To ensure appropriate follow-up to issues raised through social audit, legislative bodies and regulatory authorities might treat social audit resolutions on par with formal audit paras to ensure consideration and disposal within a time-bound framework.

(xvi) Given the critical importance of tolal disclosure of information for effective social audit. States might consider passing Right to Information legislation, taking into account the legislation already on the books in such states as Rajasthan.